

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY CGSA, INC.)	
FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	
CONSTRUCT AN ADDITIONAL CELL SITE IN)	
LOUISVILLE, KENTUCKY FOR THE)	CASE NO. 96-445
PROVISION OF DOMESTIC PUBLIC)	
CELLULAR RADIO TELECOMMUNICATIONS)	
SERVICE TO THE PUBLIC IN JEFFERSON)	
COUNTY, KENTUCKY AND THE LOUISVILLE)	
MSA)	

O R D E R

The Commission has received the attached letters from Richard Calhoun, Mary L. Wright, Tracy Shulthese, and Irv Maze (hereinafter referred to collectively as "Petitioners") regarding the proposed cellular telecommunications facility to be located at 8712 Minors Lane, Louisville, Jefferson County, Kentucky. The Commission is also in receipt of nine additional protest letters which are form letters that summarize Mr. Calhoun's September 28, 1996 letter. The letters are from Sheila Raines, Fred Raines, Juanita Coogle, Larry Coogle, Karleen Wright, Bill Wright, Gail Klemenz, Larry Klemenz, and Michael Calhoun. Two of the letters do not contain signatures and none include return addresses. For these reasons and because the Commission has been informally advised that these individuals are related to Richard Calhoun, the Commission, for purposes of administrative ease, has designated him as spokesperson for the nine additional protestors.

In order to clarify the procedural status of this proceeding, the Commission notes that the 1996 Kentucky General Assembly enacted House Bill No. 20 ("HB 20") which

granted local planning units in counties containing cities of the first class the authority to review antenna tower proposals in light of local concerns remaining within the jurisdiction of this Commission are restricted accordingly.¹ If the planning unit rejects the proposed construction and Kentucky CGSA, Inc. ("Kentucky CGSA") elects to request this Commission to override the planning unit's decision pursuant to HB 20, Section 2(2), the only issues the Commission will consider are [1] whether there is an acceptable alternative site, and [2] whether public convenience and necessity require the construction. Id. Consequently, the issues to be addressed in this proceeding will not be clear until the planning unit has reached its decision or has failed to render a decision within the statutory 60-day period.

IT IS THEREFORE ORDERED that:

1. Kentucky CGSA, Inc. ("Kentucky CGSA") shall respond to the above-named Petitioners' concerns by certified letter, within 10 days of the date of this Order.
2. Kentucky CGSA shall file a copy of the certified letter and dated receipt, within 7 days of the date on the receipt.

Done at Frankfort, Kentucky, this 11th day of November, 1996.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Director


For the Commission

¹ See HB 20, Section 2 (4) ("If a utility proposes construction . . . to be located outside the area of a county containing a city of the first class, then the commission may also take into account in its deliberations the character of the general area concerned, and the likely effects of the installation on nearby land uses and values"). This facility is not proposed for an area outside a county containing a city of the first class.

October 16, 1996

Executive Director's Office
Public Service Commission of Ky.
PO Box 615
Frankfort, KY 40602

RECEIVED

OCT 21 1996

PUBLIC SERVICE
COMMISSION

Re: Case No. 96-445

Dear Sir;

A study of the maps sent to residents within 500 ft radius of the proposed antenna tower and facility reveals that, in my opinion, they are misleading to anyone receiving them, INCLUDING YOU.

Example 1: The map showing the residents within the 500 ft radius is very misleading and I believe incorrect; even if you tack on the part of the circle from the other page. If the wide roadway? at an angle across the page is Minors Lane, the map would certainly be misleading to anyone. The antenna is less than about 100 ft from the roadway (Minors Lane). The map has nothing on it (such as street names) that anyone could understand. Does your office have some standards about how maps should be legible? I think BellSouth Mobility and their lawyers are engaging in misrepresentation by not providing legible maps, and possibly, mistaken map layouts. Are they also taking your Commission for fools? Demand better for yourself and the public. Another mailing to the residents may be required if such legible notification is not performed.

Example 2: The map entitled ENCLOSURE 1 is a joke! Very important information may be on this map but how could anyone ever tell?! The two (or maybe more?) runway approaches appear to be on this map. I have made them RED to show you how the proposed antenna facility is located between them (I believe I am right since I see and hear them every day), what is lacking is that the airport is just off the top of the map!

Also, about an inch from the bottom of the map, a sign claims "EXISTING 208' AGL 1078" AMSL" AGL is Above Ground Level and AMSL is Above Mean Sea Level. What does this refer to? What is "existing"? I could refer to other antenna towers on South Part Hill which is about where this is placed on the map. Why not place the additional antenna up there where the coverage would be greater? However, normally, on RF Design Engineer lists AGL and AMSL to define real estate acquisition within the search area to define site location for the real estate acquisition group. Therefore, the note is either referring to something else or it was included to mislead you. This is logically since AGL according to the lawyers will be 140 ft. for the antennas.

Cellular systems currently utilize the C95.1-1982 specification while PCS utilizes C95.1-1992 in conjunction with part 22 of the CFR 47 rules for determining allowable electromagnetic emission levels. Because of the closeness of houses west of the antenna the Power Density may be in excess of 2.933 mW/sq. cm. If you notice the misleading

500 ft radius map, the closest houses on the other page. This density must include all emissions, not just from one antenna. Was a test performed to ensure compliance? Was further expansion emission levels addressed?

Was a Site Acceptance Form from BellSouth engineering filed with you? May I have a copy?

Was the compliance forms for FCC filed with you? Specifically, in regard to part 22 of the Code of Federal Regulations Title 47, CFR 47? May I have a copy?


Was an environmental impact study performed and filed with the EPA? May I have a copy? I have contacted the EPA and hopefully, they will respond with this info also if it was accomplished.

Was Planning & Zoning laws followed and the applicable forms filed with your office?

Was EMF Compliance source documents filed with you detailing the requirements as specified in IEEE C95.1-1991 and specification with measurement techniques included in IEEE C95.2. These are important to the public welfare.

Thank you in advance for the information requested. I really think that BellSouth would do much better if they put the antenna on South Park hill with the other antennas. If they are only interested in a specific area, the antennas can be down-tilted just to cover that area if they were on the hill; where there are no houses. I also think that the real estate group just happen to be driving down Minors Lane and saw an empty lot and that was the basis of the location - not engineering or community relations.

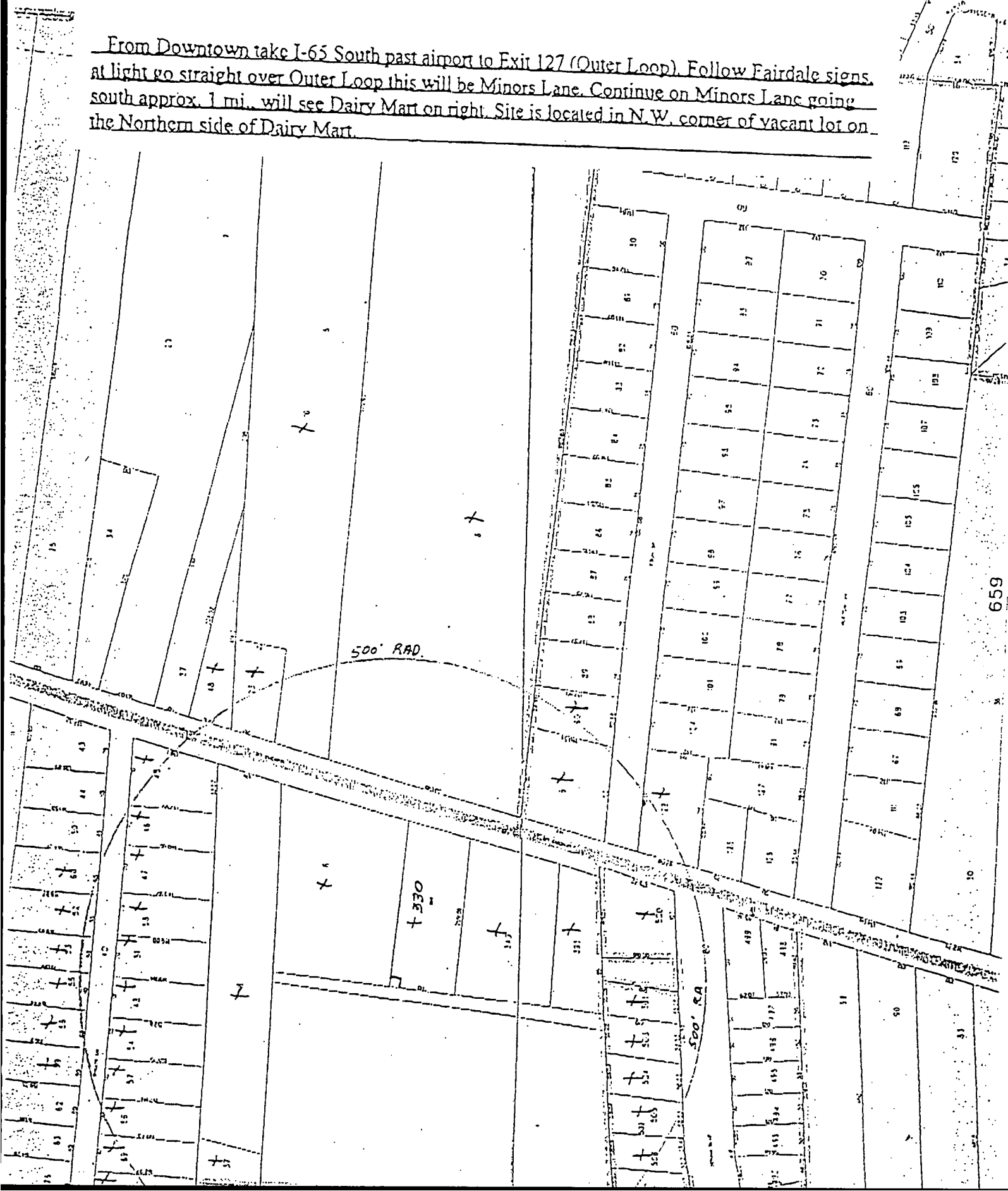
Sincerely,

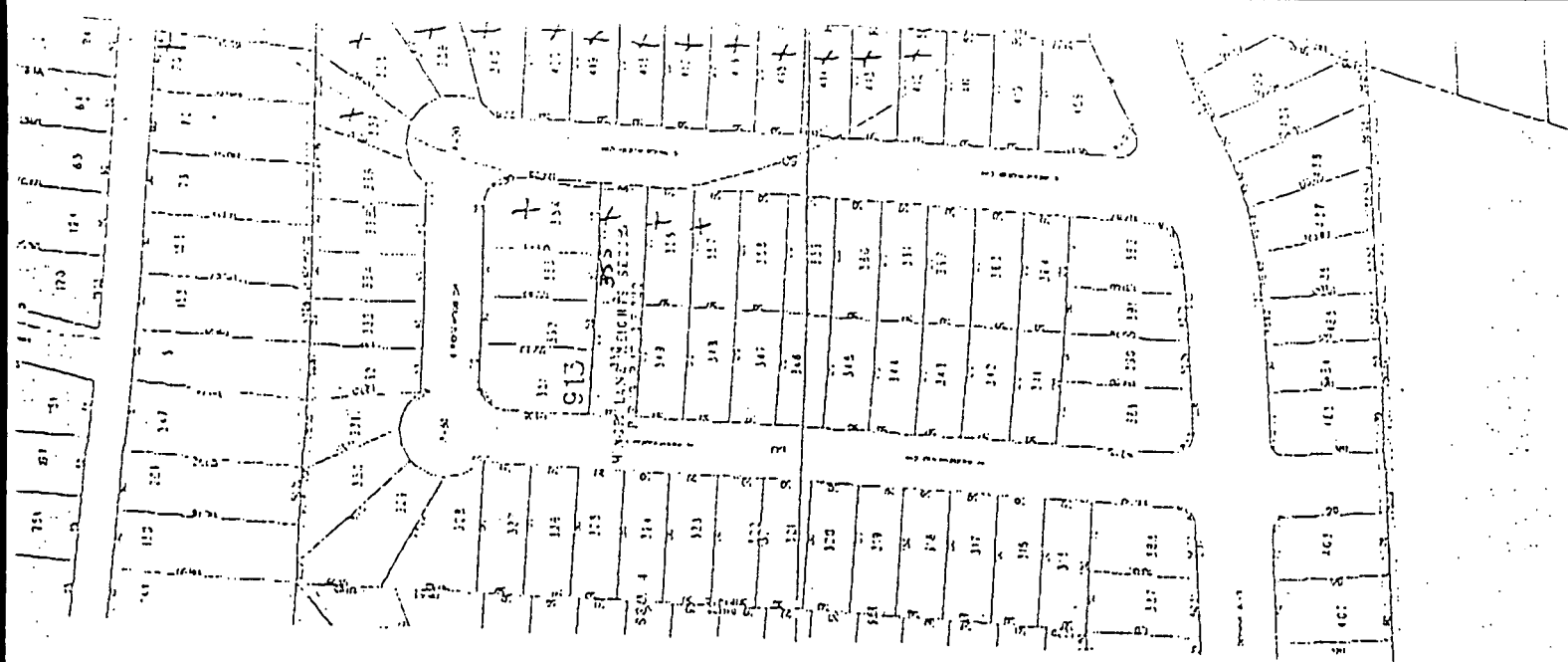


Richard Calhoun
8701 Minors Lane
Louisville, KY 40219

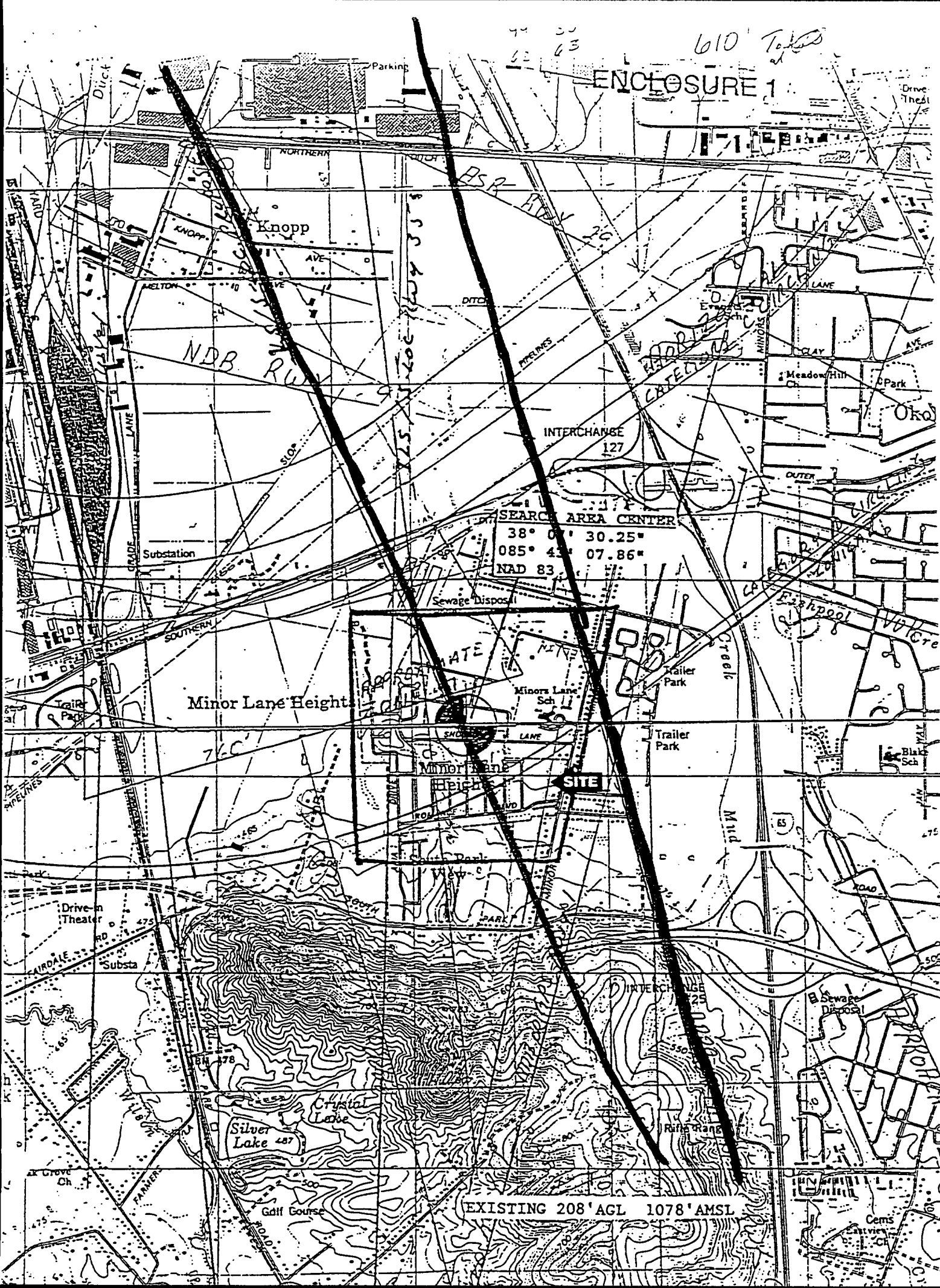
GRADE
LANEDIRECTIONS TO SITE:

From Downtown take I-65 South past airport to Exit 127 (Outer Loop). Follow Fairdale signs at light go straight over Outer Loop this will be Minors Lane. Continue on Minors Lane going south approx. 1 mi. will see Dairy Mart on right. Site is located in N.W. corner of vacant lot on the Northern side of Dairy Mart.





ENCLOSURE 1



RECEIVED

OCT - 3 1996

September 28, 1996

Executive Director's Office
Public Service Commission of KY
PO Box 615
Frankfort, KY 40602

PUBLIC SERVICE
COMMISSION

Re: Case No. 96-445

Dear Sirs:

I was deeply distressed by the letter dated September 27, 1996, from McNamara & Jones;
Re: Public Service Commission of KY Case No. 96-445. My distress was for the following reasons:

1. My home is located directly across the road from the proposed facility and antenna site. I think that this is a gross disregard for the rights of a homeowner in a residential neighborhood. The availability of land in this part of Jefferson County is high and there are many places that would do equally well for an antenna site that would not be in my front yard and on a major thoroughfare.
2. Has consideration been given to the development of high tech business within this area? After all, it is an economic development zone that should be trying to attract new businesses. Such a facility that is proposed will have adverse affects on many high tech products and services. For example, any type of laboratory using electronic equipment. Another example could be computer facilities that are not shielded. Technically, a high field strength signal can cause many devices to not operate properly. Has the Louisville/Jefferson County Office for Economic Development been informed of this plan and its possible detrimental effects on their efforts?
3. The proposed facility will be in the aircraft landing pattern since the construction of the new runways at Louisville International Airport. The proposed site is located between the two north-south runways. Interference with aircraft systems could be hazardous to all concerned. This facility would be very close to aircraft since they are either approaching or taking off and are not very high (about 1000-1500 ft); therefore, the field strength of the emitted signals would be very strong. This facility will bathe the aircraft with its signals. Has the FAA been informed of this facility and its location? Informed not only of the tower height, but of the emitted signal frequencies, harmonic and sub-harmonic content, and field strength. A complete *electromagnetic compatibility study* should be performed to ensure that commercial and military flights are not endangered and that the airport radar is not impaired. The radar altimeters, IFF/TACAN, ILS, VOR and other systems used in navigation could be adversely affect **BECAUSE OF THE INTENSITY**.
4. I am also opposed because of the detriment to the beauty of the neighbor.

5. I am opposed because anyone would be adversely impressed to see our nearness to such a source of RF energy, unsightly antenna, etc. located on a major thoroughfare.
6. I am opposed because of possible health risks to all residents of this neighborhood that could result from daily exposure to high intensity electromagnetic radiation.
7. I am opposed because of the existence and growth of such facilities could further erode property values of this neighborhood. We have already suffered the new aircraft landing pattern noise pollution that is very bad.
8. I am opposed because this is a very poor neighborhood and few, if any residents, have a cellular telephone.
9. I am opposed because there is much land available in this region that would not be on a major road in a populated area that would be suitable for the proposed facility. Indeed, why not put it on South Park Hill where the field pattern would cover a much greater area at less cost to Kentucky CGSA? South Park Hill is about a mile south of the proposed site. Because the hill is not populated with houses, the opposition would be minimal. It already has some antennas on it.

In closing, I must say that I am highly distressed at this proposal. I shall speak to my attorney on Monday morning and we shall explore what possibilities he suggests.

Very Sincerely,



Richard Calhoun
Electronic Engineer
8701 Minors Lane
Louisville, KY 40219

cc: United Parcel Service
Federal Aviation Administration
Louisville/Jefferson Co. Office for Economic Development
Louisville International Airport Authority
Environmental Protection Agency
Jefferson County Commissioner
Civil Liberties Union

Mary F. Waight
8701 E. Ridgewood Cir.
Bow Ky 40219

RECEIVED

OCT - 4 1996

Public Service Commission of Ky.

Case Mc 96-445

Dear Sir:

PUBLIC SERVICE
COMMISSION

In response to your letter of Sept 27, 1996
concerning the construction of the tele-
communication tower on the property
8712 Miras Lane Bow Ky 40219.

This is a residential area with a lot
of children and a school about two blocks
away from this site, these children
walk to school and this could be a
dangerous attraction for them, this
site is only about 120 ft from my home.

Air planes fly over this site at a
very low altitude, I can read the
names of the air lines.

I want to express my objection
to the construction of this tower.

Sincerely,
Mary F. Waight

96-445

RECEIVED
OCT 9 1996
Executive
Director's Office

October 8, 1996

Executive Director's Office
Public Service Commission of Kentucky
P. O. Box 615
Frankfort, Kentucky 40602

RECEIVED
OCT - 9 1996

Dear Sir:

PUBLIC SERVICE
COMMISSION

I am deeply concerned about the possibility of a monopolar tower being erected at 8712 Minors Lane.

My main concern is the radiation that will be given off from this tower. I am a Registered Nurse and very familiar with the side effects of radiation.

I am located only 250 feet from the proposed location of the tower and feel as though this could be a danger to myself and my children.

Furthermore, the tower will affect my property values in the future years.

Lastly, I hope you will consider all the effects to the surrounding community before you make your final decision.

Sincerely,
Tracy Shulthese
8602 Minors Lane
Louisville, Kentucky 40219

TS/bh



IRV MAZE
OFFICE OF THE COUNTY COMMISSIONER, "B" DISTRICT

203 Jefferson County Courthouse • Louisville, Kentucky 40202-2817 • 502/574-5895

REC-111

OCT - 1996

PUBLIC SERVICE
COMMISSION

RECEIVED

OCT - 8 1996

PUBLIC SERVICE
COMMISSION

October 4, 1996

Mr. Don Mills
Executive Director
Public Service Commission
730 Shenkel Lane
Frankfort, Kentucky 40602

RE: Case No. 96-445

Dear Mr. Mills,

My office has been contacted by Mr. Richard Calhoun regarding the above case application made by KY GCSA on behalf of Bellsouth Mobility.

I am very concerned about the proposed location of this tower because it is so close to two major runways of the Louisville Airport. I also share many of the concerns as listed in the enclosed letter by Mr. Calhoun.

I ask that you list both he and I as direct intervenors in this case and keep us informed of all developments. Thank you for your attention to this matter.

Sincerely,

Irv Maze
County Commissioner

\lah

cc: Mr. Richard Calhoun

Enclosure



September 28, 1996

Executive Director's Office
Public Service Commission of KY
PO Box 615
Frankfort, KY 40602

Re: Case No. 96-445

Dear Sirs:

I was deeply distressed by the letter dated September 27, 1996, from McNamara & Jones; Re: Public Service Commission of KY Case No. 96-445. My distress was for the following reasons:

1. My home is located directly across the road from the proposed facility and antenna site. I think that this is a gross disregard for the rights of a homeowner in a residential neighborhood. The availability of land in this part of Jefferson County is high and there are many places that would do equally well for an antenna site that would not be in my front yard and on a major thoroughfare.
2. Has consideration been given to the development of high tech business within this area? After all, it is an economic development zone that should be trying to attract new businesses. Such a facility that is proposed will have adverse affects on many high tech products and services. For example, any type of laboratory using electronic equipment. Another example could be computer facilities that are not shielded. Technically, a high field strength signal can cause many devices to not operate properly. Has the Louisville/Jefferson County Office for Economic Development been informed of this plan and its possible detrimental effects on their efforts?
3. The proposed facility will be in the aircraft landing pattern since the construction of the new runways at Louisville International Airport. The proposed site is located between the two north-south runways. Interference with aircraft systems could be hazardous to all concerned. This facility would be very close to aircraft since they are either approaching or taking off and are not very high (about 1000-1500 ft); therefore, the field strength of the emitted signals would be very strong. This facility will bathe the aircraft with its signals. Has the FAA been informed of this facility and its location? Informed not only of the tower height, but of the emitted signal frequencies, harmonic and sub-harmonic content, and field strength. A complete *electromagnetic compatibility study* should be performed to ensure that commercial and military flights are not endangered and that the airport radar is not impaired. The radar altimeters, IFF/TACAN, ILS, VOR and other systems used in navigation could be adversely affect **BECAUSE OF THE INTENSITY.**
4. I am also opposed because of the detriment to the beauty of the neighbor.

5. I am opposed because anyone would be adversely impressed to see our nearness to such a source of RF energy, unsightly antenna, etc. located on a major thoroughfare.
6. I am opposed because of possible health risks to all residents of this neighborhood that could result from daily exposure to high intensity electromagnetic radiation.
7. I am opposed because of the existence and growth of such facilities could further erode property values of this neighborhood. We have already suffered the new aircraft landing pattern noise pollution that is very bad.
8. I am opposed because this is a very poor neighborhood and few, if any residents, have a cellular telephone.
9. I am opposed because there is much land available in this region that would not be on a major road in a populated area that would be suitable for the proposed facility. **Indeed, why not put it on South Park Hill where the field pattern would cover a much greater area at less cost to Kentucky CGSA?** South Park Hill is about a mile south of the proposed site. Because the hill is not populated with houses, the opposition would be minimal. It already has some antennas on it.

In closing, I must say that I am highly distressed at this proposal. I shall speak to my attorney on Monday morning and we shall explore what possibilities he suggests.

Very Sincerely,

Richard Calhoun
Electronic Engineer
8701 Minors Lane
Louisville, KY 40219

cc: United Parcel Service
Federal Aviation Administration
Louisville/Jefferson Co. Office for Economic Development
Louisville International Airport Authority
Environmental Protection Agency
Jefferson County Commissioner
Civil Liberties Union

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY CGSA, INC.)	
FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	
CONSTRUCT AN ADDITIONAL CELL SITE IN)	
LOUISVILLE, KENTUCKY FOR THE)	CASE NO. 96-445
PROVISION OF DOMESTIC PUBLIC)	
CELLULAR RADIO TELECOMMUNICATIONS)	
SERVICE TO THE PUBLIC IN JEFFERSON)	
COUNTY, KENTUCKY AND THE LOUISVILLE)	
MSA)	

O R D E R

This matter arising upon the motion of Irv Maze, filed October 8, 1996, for full intervention, and it appearing to the Commission that Mr. Maze has a special interest which is not otherwise adequately represented, and that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, the Commission finds that the motion should be granted.

In order to clarify the procedural status of this proceeding, the Commission notes that the 1996 Kentucky General Assembly enacted House Bill No. 20 ("HB 20") which granted local planning units in counties containing cities of the first class the authority to review antenna tower proposals in light of local concerns. The issues remaining

within the jurisdiction of this Commission are restricted accordingly.¹ If the planning unit rejects the proposed construction and Kentucky CGSA, Inc. ("Kentucky CGSA") elects to request this Commission to override the planning unit's decision pursuant to HB 20, Section 2(2), the only issues the Commission will consider are [1] whether there is an acceptable alternative site, and [2] whether public convenience and necessity require the construction. Id. Consequently, the issues to be addressed in this proceeding will not be clear until the planning unit has reached its decision or has failed to render a decision within the statutory 60-day period.

IT IS THEREFORE ORDERED that:

1. The motion of Irv Maze to intervene is granted.
2. Mr. Maze shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Should Mr. Maze file documents of any kind with the Commission in the course of these proceedings, he shall also serve a copy of said documents on all other parties of record.

¹ See HB 20, Section 2 (4) ("If a utility proposes construction . . . to be located outside the area of a county containing a city of the first class, then the commission may also take into account in its deliberations the character of the general area concerned, and the likely effects of the installation on nearby land uses and values"). This facility is not proposed for an area outside a county containing a city of the first class.


4. Mr. Maze may file comments on the proposed facility within 20 days of the date the planning unit reaches its decision on the proposal or, if the planning unit does not act within 60 days, within 20 days after the expiration of the statutory period, whichever is sooner.

Done at Frankfort, Kentucky, this 11th day of November, 1996.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director